

11 (1) 8-5-10 175

KALUA KOI CORPORATION  
745 Fort Street  
Suite 901, Hawaii Bldg.  
Honolulu, HI 96813

DOC NO. 993562

STATE OF HAWAII  
LAND COURT  
FILED

80 JAN 25 9:02

ASSISTANT REGISTRAR  
FILED ON CLERK DATE  
BOOK PAGE  
200 492

77

Handwritten initials or mark at the bottom right corner.

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

RETURN BY: MAIL ( ) PICKUP ( )

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

THIRD  
SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS  
(LOTS 70 THROUGH 85, MAP 11,  
LAND COURT APPLICATION NO. 1683)

WHEREAS, KALUA KOI CORPORATION, a Hawaii corporation, hereinafter referred to as "DECLARANT", and KEPUHI PARTNERSHIP, a Hawaii partnership, did execute a certain Declaration of Covenants and Restrictions dated October 1, 1975, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 784612 and noted on Transfer Certificate of Title No. 181,964, hereinafter referred to as the "West Molokai Protective Covenants", covering certain parcels of land situated at Kaluakoi and Iloli, Island of Molokai, County of Maui, State of Hawaii, which together with future annexations is to be known as "West Molokai"; and

WHEREAS, DECLARANT previously filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 922290 a "Supplemental Declaration of Covenants and Restrictions (Lots 24 through 40 and 42 through 56, Map 8, Land Court Application No. 1683)"; and as Document No. 928497 a "Second Supplemental Declaration of Covenants and Restrictions (Lots 63 and 66, Map 9, Land Court Application No. 1683)" by which DECLARANT annexed certain lands owned by it in accordance with the West Molokai Protective Covenants; and

WHEREAS, DECLARANT is the fee owner of a certain parcel of land situated at Kaluakoi and Iloli, Island of Molokai, County of Maui, State of Hawaii, which has been subdivided into Lots 70 through 85, as shown on Map 11 (hereinafter "Property"), filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1683, and being a portion of the land described in Transfer Certificate of Title No. 220,492; and

WHEREAS, DECLARANT desires to make and record this Declaration annexing Lots 70 through 85, as shown on Map 11 of Land Court Application No. 1683, to West Molokai as hereinafter set forth; and

WHEREAS, pursuant to the provisions of Article II of the West Molokai Protective Covenants, DECLARANT may annex land owned by it at the time of such annexation so that it becomes entitled to the benefits and subject to the burdens of the West Molokai Protective Covenants, and DECLARANT may subject the specific property annexed to the West Molokai Protective Covenants to additional or different limitations, restrictions, covenants, and conditions;

NOW, THEREFORE, pursuant to the provisions of Section 2.02 of the West Molokai Protective Covenants, DECLARANT does hereby declare that Lots 70 through 85, Map 11 shall be and hereby are annexed to West Molokai, and that said Lots 70 through 85 are held and shall be held, sold, conveyed, encumbered, leased, occupied, and improved entitled to the benefits of and subject to the burdens of the West Molokai Protective Covenants, and does further hereby declare that the following limitations, covenants, restrictions, and additions are applicable to said Lots 70 through

85 and are in addition to and not in derogation of any covenants and restrictions contained in the West Molokai Protective Covenants:

a Each of said Lots 70 through 85 is hereby designated a Single Family Residential Lot, which means each Lot is intended to be used for single residential purposes, as provided hereafter. Each of said Lots shall be governed and restricted in the same manner and to the same extent as a Single Family Residential Lot is governed and restricted under the West Molokai Protective Covenants, except as set forth herein. Each of said Lots 70 through 85 may be used for any purpose and in any manner which a Single Family Residential Lot may be used under the West Molokai Protective Covenants, except as provided herein.

b. All garages shall be constructed and situated so that the vehicular entrance does not face directly on any street.

c. Sufficient vehicle turn-around space shall be paved on each of said Lots 70 through 85 to eliminate the necessity of backing onto Kaiaka Road.

d. No improvements shall be constructed on any of Lots 71 through 85 within (a) thirty (30) feet from the Lot line along Easement M as shown on Map 7 filed in the Office of the Assistant Registrar of the Land Court with Land Court Application No. 1683 ("Kaiaka Road") or along Lot 59 as shown on Map 9 filed in said Office with said Land

Court Application No. 1683, (b) ten (10) feet from the Lot line with any neighboring lot, and (c) thirty (30) feet from the Lot line with Lot 86 as shown on said Map 11 (the golf course). No improvements shall be constructed on Lot 70 within (a) thirty (30) feet from the Lot line along said Easement M, (b) ten (10) feet from the Lot line with Lot 71 and the westerly (makai) Lot line with Lot 86, and (c) twenty (20) feet from the northerly Lot lines with said Lot 86.

e. All utility lines shall be underground.

The owner of each Lot shall pay his proportionate share of the maintenance costs of the main sewer line located on Easement 6 for Sanitary Sewer Purposes as shown on said Map 11. Such costs shall be in the amount expended and shall be due and payable to the operator of the sewerage treatment plant and facilities servicing the Lots when billed. If the Lot owner does not pay his proportionate share of the maintenance costs when due, the amount then due from him, plus costs and reasonable attorney's fees, shall become a lien upon the property of such Lot owner upon filing by said operator of a Notice of Default in the Office of the Assistant Registrar of the Land Court of the State of Hawaii. Such lien shall be subordinate to the lien of any first mortgage on the Lot of such owner. This remedy shall be in addition to any other remedies provided by law for the enforcement of the obligation to pay maintenance costs.

If the operator of the sewerage treatment facilities is a public utility company, then, notwithstanding anything herein to the contrary, the rules, regulations, and tariffs of said company shall govern the assessment of costs for maintenance and all other services provided by said company.

70  
f. The residential structure constructed on each of said Lots 70 through 85 shall have a minimum value or construction cost of Eighty-Five Thousand Dollars (\$85,000.00), whichever is less, Adjusted by the United States City Average All Urban Consumers--All Items Index. Construction costs shall include actual construction cost of dwelling and garage, a reasonable architect's fee, and a reasonable profit to the builder, but shall not include the cost of landscaping, fences, other permissible structures, or the cost of the Lot.

The term "Adjusted by the United States City Average All Urban Consumers--All Items Index" herein shall mean that stated dollar amount increased or decreased in the same proportion as the United States City Average All Urban Consumers--All Items Index figure most recently published by the U.S. Department of Labor, Bureau of Labor Statistics (or, if not so published, the most nearly comparable available index) is more than or less than said Index figure for December, 1979.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision shall not affect the validity or enforceability of any other provision hereof. This Third Supplemental Declaration shall continue and remain in full force and effect until such time as the West Molokai Protective Covenants is terminated under Section 8.01 of Article VIII of said Covenants.

IN WITNESS WHEREOF, Declarant has executed these presents <sup>25 of</sup> at this 25<sup>th</sup> day of January, 1980. <sup>copy</sup>

KALUA KOI CORPORATION

By Phyllis E. Boyd  
Its Vice Pres.

By Edwin Kefauver  
Its Dist. Treasurer

STATE OF HAWAII )  
 ) ss.  
CITY AND COUNTY OF HONOLULU )

On this 23rd day of January, 1980,  
before me appeared PHILLIP E. BOYDSTON and  
EDWIN KOBASHIGAWA, to me personally known, who,  
being by me duly sworn, did say that they are the  
Vice President and Assistant Treasurer  
respectively, of KALUA KOI CORPORATION, and that the seal  
affixed to the foregoing instrument is the corporate seal  
of said corporation, and that said instrument was signed  
and sealed in behalf of said corporation by authority of  
its Board of Directors, and said PHILLIP E. BOYDSTON  
and EDWIN KOBASHIGAWA severally acknowledged said  
instrument to be the free act and deed of said corporation.

Annelise J. Wright  
Notary Public, State of Hawaii  
The Justice Court  
My commission expires: 5-14-80